MUNICIPAL CORPORATION—DEFECTIVE STREETS—INJURY TO BICYCLIST—TRICYCLE ON SIDEWALK, USED BY LAME PERSON.—In *Leslie* v. *Grand Rapids* (Mich.), 78 N. W. 885, it is held that a municipal corporation is not liable to the rider of a bicycle for personal injuries caused by the defective condition of the street, where the street is in reasonably safe condition for the passage of ordinary vehicles, such as wagons and carriages. The decision is placed upon the ground that at the time of the passage of the statute requiring streets to be kept in reasonably safe condition for "vehicles," bicycles were little used, and, in the opinion of the court, were not in contemplation by the legislature.

In *Wheeler* v. *City of Boone* (Iowa), 78 N. W. 909, an ordinance prohibiting the use of sidewalks by "all varieties of vehicles known by the general term 'bicycles,'" is held not to apply to a tricycle, operated by hand, for the convenience of a person unable to walk.

CONTRACTS—PROMISE TO PAY "WHEN ABLE."—A promise to pay a debt when the debtor "might feel able to pay" is held, in *Pistel* v. *American Mutual L. Ins. Co.* (Md.), 43 L. R. A. 219, to create a legal and moral obligation to pay when the debtor is able, and to require him honestly to exercise his judgment as to that fact.

The authorities are not uniform as to the effect of a promise to pay "when convenient," "when in my opinion I am able," "as soon as practicable," etc. The tendency seems to be to construe such phrases, if possible, as promises to pay within a reasonable time. Other courts construe them as merely moral obligations, or, if legally binding, as depending upon proof of the happening of the condition. See *Barnard* v. *Cushing*, 4 Metc. 230 (38 Am. Dec. 362, and note collecting the cases; *Brannin* v. *Henderson*, 12 B. Mon. 62; *Tebo* v. *Robinson*, 100 N. Y. 27. In *Barnard* v. *Cushing* (*supra*), an indorsement on a note by the promisee, made contemporaneously with its execution, by which he agreed never to compel payment, was held to be binding and to render the obligation to pay merely moral, and not legally enforceable. The soundness of this ruling is doubtful. The promise not to enforce, being repugnant to the main promise, should probably have been rejected for the repugnancy. See monographic note on "Repugnancy in Contracts," 60 Am. St. Rep. 93.

BANKS—NEGLIGENCE IN MAKING COLLECTION.—In *Minneapolis etc. Co.* v. *Metropolitan Bank* (Minn.), 78 N. W. 980, it is held to be negligence *per se* for a bank, with which a check on a distant bank has been deposited for collection, to forward the check directly to the drawee-bank for payment; and that the forwarding bank is responsible for the loss resulting to the drawer by reason of such method of transmission. Nor does the fact that the drawee-bank is the only banking institution of good standing in the town, nor proof of a well established custom to so transmit, nor a notice brought home to the depositor that the forwarding bank assumes no liability for the defaults of the sub-agents it may select, alter this conclusion.

"It seems to be settled by all of the authorities," says the court, "that, 'for the purposes of collection, the collecting bank must employ a suitable sub-agent. It must not transmit its checks or bills directly to the bank or party by whom payment is to be made, with the request that remittances be made therefor. It is

considered that no firm, bank, corporation, or individual can be deemed a suitable agent, in contemplation of law, to enforce in behalf of another a claim against itself.' 1 Daniel, Neg. Inst. 328a; 3 Am. & Eng. Encyc. Law (2d Ed.) 809; *Drovers' Nat. Bank* v. *Anglo-American Packing & Provision Co.*, 117 Ill. 100, 7 N. E. 601; *Bank* v. *Goodman*, 109 Pa. St. 422, 2 Atl. 687; *Wagner* v. *Crook*, 167 Pa. St. 259, 31 Atl. 576; *Bank* v. *Burns*, 12 Colo. 539, 21 Pac. 714; *Anderson* v. *Rogers*, 53 Kan. 542, 36 Pac. 1067. See note to this last case in 27 Lawy. Rep. Ann. 248, in which the authorities are carefully considered. . . . . We have stated the grounds upon which defendant attempts to justify. It did show that it was usual and customary for banks to send checks and drafts, payable by other banks at distant points, to the drawee direct, and by mail, provided there was no other bank of good standing in the same town, while plaintiff was allowed to prove that an express company, whose business it was to collect and transmit money, had offices in both places. We fail to see what possible effect upon a case of this kind the fact that the drawee is the only bank in good standing in the town can have upon the duty of a bank which undertakes a collection. Any reason for such a course is equally as sound where there are two or more banks in the town as where there happens to be but one. While the syllabus of one of the cases cited in support of counsel's proposition (*Wheeled Scrapper Co.* v. *Sadliek*, 50 Neb. 105, 69 N. W. 765), may justify him, the opinion does not. We cannot agree with counsel that the usage and custom here relied upon is a defense to the claim that defendant was negligent when forwarding this check to the Mapleton Bank for presentation and payment. As a general rule, usage and custom will not justify negligence. It may be admitted that such a course is frequently adopted, but it must be at the risk of the sender, who transmits the evidence of indebtedness upon which the right to demand payment depends, to the party who is to make the payment. Such a usage and custom is opposed to the policy of the law, unreasonable and invalid. It was so decided in *Drovers' Nat. Bank* v. *Anglo-American Packing & Provision Co.* and *Bank* v. *Goodman*, *supra*. Counsel for defendant has cited two cases from the English Law Reports and three from the New York Court of Appeals as authority upon this question. An examination of these cases will show that this exact question was not decided. See 27 Lawy. Rep. Ann. 248, note, *supra*."

MUNICIPAL CORPORATIONS—REPEAL OF CHARTER—RIGHTS OF CREDITORS—STATUTE OF LIMITATIONS.—The opinion of Montgomery, J., in *Broadfoot* v. *City of Fayetteville* (N. C.), 32 S. E. 805, contains an excellent discussion of the effect of the repeal of the charter of a municipal corporation, upon the rights of creditors. As happened in most, if not all, of the cases involving the question, substantially the same district and the same inhabitants had been subsequently re-incorporated. The court, following several similar cases in the Supreme Court of the United States (*Meriwether* v. *Garrett*, 102 U. S. 472; *Wolff* v. *New Orleans*, 103 U. S. 358; *Mobile* v. *U. S.*, 116 U. S. 289), concludes that so long as there is no corporation substituted in the place of that whose charter has been repealed, there is probably no remedy for the creditors; yet as soon as there is a re-incorporation, of substantially the same people and territory, the new corporation *ipso facto* succeeds to the burden of indebtedness formerly resting upon its predecessor; nor, as the court holds, can the legislature prevent this result, by any express prohibition against